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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/820,578	04/08/2004	Lott Johnson	5115-001	8573
24112	7590	08/09/2005	EXAMINER	
COATS & BENNETT, PLLC P O BOX 5 RALEIGH, NC 27602			BOSWELL, CHRISTOPHER J	
			ART UNIT	PAPER NUMBER
			3676	

DATE MAILED: 08/09/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/820,578

Applicant(s)

JOHNSON, LOTT

Examiner

Christopher Boswell

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 19 May 2005.
- 2a) ☒ This action is FINAL. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-15 and 18-21 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-15 and 18-21 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 08 April 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☒ Other: Appendix A.

DETAILED ACTION

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-15 and 18-21 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S.

Patent Number 3,016,968 to Lenz et al.

Lenz et al. disclose a vacuum actuated door latching assembly having a latch (figure 2) operatively associated with the door (1), a pneumatic actuator (26) operatively associated with the latch for causing the latch to move between the locked and unlocked positions, a vacuum line (37) connected to the pneumatic actuator and adapted to connect to a vacuum source (41) associated with the vehicle, a control valve (39) disposed between the vacuum source and the pneumatic actuator for controlling the activation of the pneumatic actuator, and a biasing device (11) engaging the door (keeper of the door, which is an integral element of the door) and biasing the door towards an open position, as in claim 1.

Lenz et al. also discloses the latch having a locking lever (5) that is pivotally mounted and movable between a locked and unlocked position, wherein the pneumatic actuator includes an arm (30) that engages the locking member and moves the locking member in at least one direction between the locked and unlocked positions (column 2, lines 7-20), as in claim 2, as well as a conventional key lock (22) but wherein the pneumatic actuator is operative to actuate the latch independent of the key lock (column 1, lines 17-21), as in claim 3.

Lenz et al. further disclose the locking lever is of a generally L-shape and includes a terminal end portion (figure 2) that includes a catch (9) for engaging a receiver (4) secured to the door to be latched, as in claim 4, and further including a vehicle (3) having a load compartment (2) and a door (1) that permits access to the load compartment and wherein the latching assembly is mounted adjacent the door (figure 1) and wherein the vehicle includes an engine (column 2, lines 24-26) that serves as the vacuum source for actuating the pneumatic actuator, as in claim 5, as well as the spring being adapted to extend between a stop (4) disposed on the door and an area (figure 2; column 1, lines 45-56) adjacent the door, and wherein the position of the spring is adjustable with respect to the door, as in claim 7, where the spring is partially contained within a sleeve (7, using the definition of a sleeve being a case that an object fits into, see appendix A), as in claim 8, and wherein the spring is fixed to a threaded bolt (6) that extends partially through the sleeve (figure 2) and which can be adjusted with respect to the door, as in claim 9.

Lenz additionally discloses a vehicle having a vacuum actuated latch assembly for latching an access door to a load compartment (figure 1), comprising an engine (column 2, lines 24-26) for powering the vehicle, a compartment (2) for receiving and holding a load, a door (1) for permitting access to the compartment of the vehicle, a vacuum actuated latch assembly (figure 2) for automatically unlocking the door, the vacuum actuated latch assembly having a latch (figure 2) operatively associated with a door for locking the door, the latch being movable between a locked and an unlocked position, a pneumatic actuator (26) operatively associated with said latch for causing the same to move between the locked and unlocked position, a vacuum line (37) connected to the pneumatic actuator and extending to the engine of the vehicle

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such that the engine of the vehicle serves as a vacuum source for the pneumatic actuator, a control valve (39) disposed between the engine and the pneumatic actuator for controlling the actuation of the pneumatic actuator, and a biasing device (11) for engaging the door and biasing the door towards an open position (the spring force urges the keeper, an integral part of the door, toward the open position of the latch), the biasing device being spaced from the latch assembly (figure 2) and operable independently of the latch assembly (the biasing acts directly opposite and independent of the latching motion, wherein the spring biases the latch against the force of the door), and wherein the biasing device includes a spring (11) disposed adjacent the door and positioned with respect to the door such that when the door assumes a closed position, the spring engages the door and is compressed by the door (column 1, lines 45-56), and wherein when the latch is moved from the locked position to the unlocked position the spring forces the door to open (the force of the spring moves the latch from the locked position to the unlocked position, allowing the keeper to be detached from the latching assembly and thus permits the door to be opened), as in claim 10.

Lenz et al. also disclose the pneumatic actuator includes a pneumatic cylinder (figure 2), as in claim 11, as well as the latch includes a locking lever (5) for engaging a receiver (4) secured to the door, and wherein the pneumatic actuator includes an arm (30) for engaging and moving the locking lever from a locked position to an unlocked position, as in claim 12, and where the pneumatic actuator can only be actuated to unlatch the latch when the engine of the vehicle is running (column 2, lines 21-29), as in claim 13, wherein the latch normally assumes a locked position, and wherein the arm that extends from the pneumatic actuator is operative upon the actuation of the pneumatic actuator to engage the latch and move the latch to the unlocked

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position (column 2, lines 29-44), as in claim 14, where the spring is at least partially housed within an elongated sleeve (7, using the definition of a sleeve being a case that an object fits into, see appendix A) that is fixed adjacent the sliding door (figure 2), and wherein the spring is secured to a threaded bolt (6) that is held with a threaded support such that the threaded bolt can move back and forth axially within the threaded support (figure 2) so as to adjust the position of the spring with respect to the door, as in claim 21.

Lenz et al. further discloses a method of unlocking a door to a load compartment of a vehicle by directing a vacuum from an engine of the vehicle through a line to a pneumatic actuator that is operatively associated with a latch that operates to lock the access door and which is movable between a locked position and an unlocked position (column 2, lines 21-29), utilizing the vacuum to actuate the pneumatic actuator and wherein the actuation of the pneumatic actuator results in the actuator engaging the latch and moving the latch from the locked position to the unlocked position, permitting the access door to open (column 2, lines 7-20), shutting the engine off, and closing the access door causing the latch to lock the access door (column 1, lines 45-49), biasing the access door towards an open position while the latch assumes the locked position and locks the access door closed (column 1, lines 45-49), wherein biasing the access door towards an open position includes securing a spring (11) adjacent to the access door and extending the spring to where the spring engages a stop (column 1, lines 53-56) that extends from the access door such that the spring pushes on the stop and effectively biases the access door towards an open position (column 1, lines 50-56), and wherein the biasing of the access door towards the open position is independent of the latch that operates to lock the access door

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(the biasing acts directly opposite and independent of the latching motion, wherein the spring biases the latch against the force of the door), and wherein when the latch is moved from the locked position to the unlocked position, the spring causes the door to move towards the open position (the spring force urges the keeper, an integral part of the door, toward the open position of the latch), as in claim 15.

Lenz et al. additionally discloses actuating a control valve that is effective to permit the vacuum to reach the pneumatic actuator and wherein when the vacuum reaches the pneumatic actuator, the pneumatic actuator is actuated which results in the latch being engaged and moved to the unlocked position (column 2, lines 29-36), as in claim 18.

Lenz et al. also disclose the pneumatic actuator has an arm that extends past a portion of a locking lever that forms a part of the latch assembly, wherein the actuation of the pneumatic actuator causes the arm to move and to engage a portion of the locking lever which results in the locking lever being pulled from its locked position to an unlocked position (column 2, lines 7-20), as in claim 19, wherein the locking lever is pivotally mounted for movement about an axis and wherein the actuation of the pneumatic actuator causes the locking lever to rotate from a locked position to an unlocked position (column 1, lines 41-45), as in claim 20.

Response to Arguments

Applicant's arguments filed May 19, 2005 have been fully considered but they are not persuasive. Regarding the argument that Lenz et al. fail to disclose a biasing device for biasing the trunk lid of a vehicle towards or to an open position, the examiner respectfully disagrees. It is well known in the art that the biasing member of vehicular latches acts in a direction that when

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the latch is rotated between a locked position to an unlocked position the force of the biasing member moves the keeper, an integral part of a vehicular door, toward a position which enables the door to be opened, thus the biasing device biases the keeper toward an open position.

Regarding the argument that Lenz et al. does not disclose the spring being adapted to extend between a stop disposed on the door and an area adjacent the door, the examiner respectfully disagrees. The examiner takes the position that the keeper of Lenz et al. acts as a stop, as well as acting as a receiver for the latch assembly, for the door, where the spring is disposed between the keeper and an area adjacent the door, as shown in figure 2.

Regarding the argument that the spring of Lenz et al. is not at least partially contained within a sleeve, the examiner respectfully disagrees. Though the applicant gives one definition of a sleeve, the examiner relies on the simplified definition of a sleeve being a case into which an object or device fits (see appendix A), thus the surrounding structure 7 of the casing is a sleeve as it is a case which the spring fits.

Furthermore, with the sleeve of Lenz et al. is a bolt to which the spring is fixed. Wherein there is no criticality shown as to the need of the bolt being threaded, the examiner believes the bolt of Lenz et al. reads on the claimed bolt. Assuming arguendo, if it is to be desired for the bolt to be threaded to adjust the location of the biasing member in relation to the door, it would have been obvious to one with ordinary skill in the art to adjust the location of the spring of Lenz et al. by changing the size of the bolt to provide a proper location for the biasing member to interact with the door and latching assembly.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The following patents are cited to further show the state of the art with respect to vacuum actuated vehicular latch assemblies:

U.S. Patent Number 4,170,374 to Garcia, U.S. Patent Number 3,580,623 to Peters, U.S. Patent Number 3,113,447 to Oishei.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Christopher Boswell whose telephone number is (571) 272-7054. The examiner can normally be reached on 9:00 - 4:00 M-F.

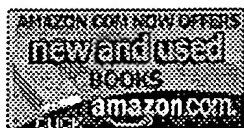
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Brian Glessner can be reached on (571) 272-6843. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

CJB CB
August 2, 2005


BRIAN E. GLESSNER
PRIMARY EXAMINER

APPENDIX A



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The American Heritage® Dictionary of the English Language: Fourth Edition. 2000.

sleeve

PRONUNCIATION: slēv

NOUN: 1. A part of a garment that covers all or part of an arm. 2. A case into which an object or device fits: *a record sleeve*.

TRANSITIVE Inflected forms: **sleeved, sleev-ing, sleeves**

VERB: To furnish or fit with sleeves or a sleeve.

IDIOM: **up (one's) sleeve** Hidden but ready to be used: *I still have a few tricks up my sleeve*.

ETYMOLOGY: Middle English *sleve*, from Old English *slēf*. See **slēubh-** in Appendix I.

OTHER FORMS: **sleeve'less** —ADJECTIVE

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